

~~KRAMER LEVIN NAFTALIS & FRANKEL LLP~~

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October 21, 2005

BY HAND DELIVERY

The Honorable Kenneth M. Karas  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 920  
New York, NY 10007

Re: Advance Magazine Publishers Inc. d/b/a The Condé Nast Publications  
v. Activ8now, LLC and Active8media, LLC  
Civil Action No. 05-CV-7516 (KMK)

Dear Judge Karas:

We were busy preparing our opposition papers to defendants' pre-answer motion to stay, dismiss or transfer, when the attached Order and opinion from Judge Vining arrived. Judge Vining has transferred the entire case from the Northern District of Georgia to the Southern District of New York. When it eventually winds up here, we assume that it will be consolidated with the present action.

We are writing to seek Your Honor's guidance as to how to proceed with respect to defendants' motion. Given the case transfer to this Court, we respectfully submit that defendants' motion is now moot and should be withdrawn voluntarily by defendants or disallowed by the Court.

Respectfully submitted,

KRAMER LEVIN NAFTALIS & FRANKEL LLP

By:

*Randy Lipsitz*  
Randy Lipsitz

RL:dms  
Enc.

cc: Paul R. Niehaus, Esq. (by fax w/enc.)

*The motion to dismiss and/or transfer  
is withdrawn, (Doc # ) and is to be  
terminated.*

*So ordered -*

*OK*  
*10/25/05*